

## **REMARKS**

Reconsideration of this application is respectfully requested. Claims 37-59 remain pending.

### ***Statement of Substance of Examiner Interview***

In a June 7, 2006 telephone interview between the Examiner and the undersigned attorney, it was pointed out that the new ground for rejection set forth in the Office Action was based on subject matter that does not preclude patentability due to applicability of 35 U.S.C. § 103(c). The Examiner agreed to withdraw finality of the Office Action in an Advisory Action upon receipt of information establishing applicability of 35 U.S.C. § 103(c). As discussed below, applicant has enclosed a Declaration of Common Ownership herewith to establish applicability of 35 U.S.C. § 103(c).

### ***Rejection Under 35 U.S.C. § 103(a)***

Claims 37-51 and 53-58 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Pub. 2003/0084236 to Khanna et al. (“Khanna”) in combination with various other references.

Under 35 U.S.C. § 103(c), subject matter developed by another person which qualifies as prior art only under one or more of subsections (e), (f), and (g) of 35 USC §102 shall not preclude patentability under section 103 where the subject matter and the claimed invention were, at the time the claimed invention was made, owned by the same person or subject to an obligation of assignment to the same person.

Applicant submits that, if Khanna qualifies as prior art at all, Khanna qualifies as prior art only under subsection 102(e) and further that, as stated in the Declaration of Common Ownership enclosed herewith, the subject matter of Khanna and the invention claimed in the present application were, at the time the claimed invention was made, owned by the same person or subject to an obligation of assignment to the same person. Accordingly, applicant submits that Khanna may not be relied upon, alone or in combination with other references, to reject applicant’s claims under Section 103 and therefore that the Section 103(a) rejections of claims 37-51 and 53-58 are moot.

***Claim Objections***

Applicant acknowledges that claim 52 would be allowable if rewritten in independent form to include all the limitations of the respective base claims and any intervening claims. In view of the foregoing remarks, applicant respectfully submits that claim 52 is in condition for allowance without further amendment.

***Previously Added Claim***

The Office Action does not identify the status of claim 59, which was added in an Amendment submitted December 22, 2005 and which depends from claim 37. In view of the foregoing remarks, applicant submits that claim 59 is also in condition for allowance.

***Conclusion***

Applicant submits that all pending claims are in condition for allowance. If a telephone interview would be helpful in any way, the examiner is invited to call the undersigned attorney.

A petition for a one (1) month extension of time is enclosed herewith.

Authorization is hereby given to charge deposit account 50-1914 for any fee deficiency associated with this Response.

Respectfully submitted  
SHEMWELL MAHAMEDI LLP

Dated: June 7, 2006

By: /Ronald R. Shea/

Ronald R. Shea, Reg. No. 45,098

Tel. 408-236-6645

Shemwell Mahamedi LLP  
4880 Stevens Creek Boulevard  
Suite 201  
San Jose, California 95129